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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Deployment of Wireline Services Offering
Advanced Telecommunications Capability

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CC Docket No. 98-147

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FEDERAL COMMUNICATIONS COMMISSION
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REPLY COMMENTS OF DSL.NET, INC.

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REPLY COMMENTS OF DSL.NET, INC.

DSL.net, Inc. ("DSL.net") hereby submits these reply comments in response to the Federal Communications Commission's ("Commission") *Further Notice* in the above-captioned proceeding regarding the deployment and provision of high speed data transmission services, specifically Digital Subscriber Line ("DSL") services.¹ DSL.net is an emerging entrant into the competitive local exchange market. DSL.net provides high-speed data communications and Internet access using broadband DSL technology. DSL.net welcomes the opportunity to participate in this proceeding in that the Commission has the ability to greatly affect the costs of entry for competitive providers. In this Reply, DSL.net recommends that the Commission require line sharing to enable providers of new technologies to offer their services to customers in a more efficient, cost effective manner.

I. INTRODUCTION

In the *Further Notice*, which the Commission adopted as part of a general proceeding designed to promote competition in the market for advanced services, the Commission, *inter alia*, tentatively concludes that line sharing is technically feasible, and seeks comment on the

¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-147, FCC 99-48 (*rel.* March 31, 1999) ("*Further Notice*").

operational, pricing and policy ramifications to determine whether to require line sharing nationally.²

DSL.net is a recently formed communications company that provides customers with high-speed data connections and Internet access. DSL.net intends to provide its services across the nation and is working diligently with the Regional Bell Operating Companies ("RBOCs"), GTE and other incumbent local exchange carriers ("ILECs") to utilize their networks in the provision of DSL.net's services. The costs of obtaining copper loops and collocation from the ILECs are significant and DSL.net's prices to its customers necessarily must reflect those underlying costs.

Key elements of DSL.net's services include:

- high-speed digital connections at competitive prices and with performance comparable to alternative data communications services;
- connections that allow for data transmission to and from the customer at the same high speed (i.e., symmetric connections);
- connections to the Internet that are always on, eliminating the need to dial into the network for each use; and
- a network designed to reduce the possibility of unauthorized access and to permit the secure transmission of sensitive data and applications.

² *Further Notice*, at ¶ 8.

II. DSL.NET SUPPORTS THE COMMISSION'S INITIATIVES TO REQUIRE LINE SHARING

A. Line Sharing Serves The Public Interest By Fostering The Deployment Of Advanced Services

As the Commission correctly stated in the *Further Notice*, "if shared line access could be made widely available, competition for advanced services would grow more rapidly."³ Line sharing enables CLECs to provide DSL services on the same loop on which the customer's voice services are delivered. Given the special position of the ILECs as the main source of copper loops, line sharing will promote the intent of the Communications Act to encourage deployment of advanced capabilities to customers such as the benefits derived from DSL technology.

Customers desiring DSL services will not be disadvantaged by long installation intervals due to an ILEC's timetable, and will not be forced to pay the cost of a second line into their homes devoted solely to DSL. Moreover, the resulting enhanced competition will spur service improvements, technological innovation, and rate reductions, all to the benefit of customers. Finally, line sharing will promote the public interest by encouraging the most efficient use of the telecommunications network. Without line sharing, much of a loop's capacity lies fallow and is simply wasted. The increased efficiencies resulting from line sharing will hold benefits for both telecommunications providers and consumers alike.

³ *Id.*, at ¶ 96.

B. The Commission Possesses The Authority To Require Line Sharing

DSL.net agrees with the majority of those on record in this proceeding that the Commission has ample authority to require ILECs to provide line sharing.⁴ As Covad explained in its initial comments, the Commission has at least two statutory bases for mandating line sharing. The ILECs have filed federal access tariffs governing their provision of DSL services. Therefore, under its first statutory option, the Commission may rely on its general Title II authority to make certain that the ILECs' access services are made available to CLECs on just, reasonable and nondiscriminatory terms and conditions, pursuant to Sections 201 and 202 of the Communications Act.⁵ The Commission has permitted ILECs to tariff DSL as an interstate special access service.⁶ Under established Commission precedent predating the 1996 Act, ILECs are required to provide special access services to competitive access providers ("CAPs"), pursuant to Title II of the Communications Act.⁷

Alternatively, the Commission may require line sharing because it meets the definition of a "network element" of the PSTN that ILECs must offer to requesting CLECs on an unbundled basis,⁸ pursuant to Section 251 of the Communications Act. Line sharing fulfills the "necessary"

⁴ See, e.g., Rhythms NetConnections, Inc. Comments ("Rhythms") at pp. 4-5; Covad Communications Company ("Covad") Comments at pp. 14-25; NorthPoint Communications, Inc. ("NorthPoint") Comments at pp. 23-28.

⁵ 47 U.S.C. §§ 201(b), 202(a).

⁶ See, e.g., *GTE Tel. Operating Cos. GTOC Transmittal No. 1148*, CC Docket No. 98-79, FCC 98-292, Memorandum Opinion and Order (rel. Oct. 30, 1998).

⁷ See, e.g., *Expanded Interconnection with Local Telephone Company Facilities*, First Report and Order, 7 FCC Rcd 7369 (1992).

⁸ 47 U.S.C. § 153(45).

and "impair" criteria of Section 251(d)(2) because a CLEC's inability to provide DSL over the local loop also used for local exchange services makes their offering of DSL services to small and medium sized businesses economically infeasible. The ILECs control the bottleneck loop facilities needed for the provision of all local exchange and exchange access services, including the line-shared DSL services of competitors. Without an affirmative obligation that they must provide unbundled access to the non-voice portion of DSL-capable loops, ILECs will be able to further cement their control over the marketplace.

C. There Are No Material Technical Barriers To Line Sharing

DSL.net endorses the initial comments filed in this proceeding by other DSL-providers and objects to certain views offered by ILECs participating in this proceeding. First, DSL.net agrees with the Commission's tentative conclusion that no material technical obstacles exist that hinder the sharing of lines between traditional local exchange services and data transmission services.⁹ As the Commission has recognized, many ILECs currently do just that,¹⁰ and the ILECs have not offered any compelling evidence demonstrating that they cannot share the lines of their local exchange customers with competitors seeking to deliver DSL service to those customers. In fact, from a technical perspective, there is no difference between an ILEC provisioning both voice and DSL services over the same line and an ILEC provisioning only the voice services while a competitor provisions the DSL service over the same line. As Rhythms NetConnections, Inc. ("Rhythms") describes in its initial comments, independent technical tests

⁹ *Further Notice*, at ¶¶ 97, 103.

¹⁰ *Id.*, at ¶ 103.

of voice-DSL line sharing reveal that a circuit-switched telephone call may be successfully transmitted through the public switched telephone ("PSTN") network simultaneously with packet-switched Internet traffic routed through a corporate local area network ("LAN").¹¹

III. CONCLUSION

For the reasons stated above, DSL.net urges the Commission to adopt a federal requirement that ILECs provide CLECs access to existing copper loops on a shared basis so that CLECs may fulfill the Communications Act's goal of fostering the deployment of advanced telecommunications services, including DSL services.

Respectfully submitted,



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Dated: July 22, 1999

¹¹ Rhythms Comments, at pp. 8-9.

CERTIFICATE OF SERVICE

I, Deborah Walker, hereby certify that on July 22, 1999, a copy of the foregoing "Reply Comments of DSL.net, Inc." was hand delivered to the following:

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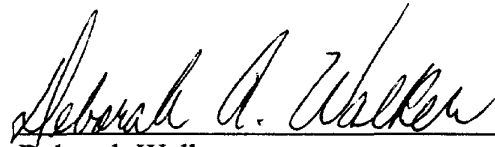
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